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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/827,378	04/20/2004	Bruno Domange	0584-1017	3776

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YOUNG & THOMPSON  
745 SOUTH 23RD STREET  
2ND FLOOR  
ARLINGTON, VA 22202

EXAMINER

BUTLER, DOUGLAS C

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 03/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/827,378

Applicant(s)

DOMANGE, BRUNO

Examiner

Douglas C. Butler

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 and 8-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-6, 8-18 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. An action on the merits of claims 1-6, 8-18 readable on the elected Species B (Figure 4) is included in this office action, election having been made without traverse.

2. Claims 7, 19-20 have been canceled.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-6, 8-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There are no clear antecedent bases in the claims for "its length" of claim 1, line 4 and "it" of claim 1, third from the last line.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-6 and 8-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Salmon et al (US4280600) or German 2623622 to Bitsch et al, both of record.

Note the single figure of Salmon et al and Figure 2 of DE 2623622 to Bitsch et al.

The principal references disclose the invention substantially as claimed except for the feature of instant claim 1, the last line directed to the feature that the "fluid has a viscosity greater than 500 c st". Re the specific viscosity of the fluid, it would have been

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obvious to one having ordinary skill in the art to which the invention pertains to select any viscosity of fluid desired <sup>in the principal references</sup> since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Through trial and error, an artisan in the art seeking to meet a variety of fluid dampening results and characteristics could select a variety of viscosities which selection would have been within the routine skill of the artisan working in the vibration and shock absorber technology.

Re claims 15-18, the material of the piston, it would have been obvious to one having ordinary skill in the art at the time invention was made to select the material of the piston <sup>in each of the references</sup> as desired since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

7. Applicant argues that Salmon et al "do not allow isolating main chamber from the secondary chambers when high forces are applied by plunger piston to the fluid in the cylinder". The feature does not appear in claim 1.

8. Applicant argues that Salmon et al. discloses dampers for car suspensions having fluid of necessarily low viscosity. The dampers do not include "means for limiting the leakage of fluid from the main chamber toward the secondary chambers, and for facilitating it from at least one of the secondary chambers toward the main chamber". According to Salmon et al., the fluid flows in the same manner from main chamber to secondary chambers and in opposite direction. "

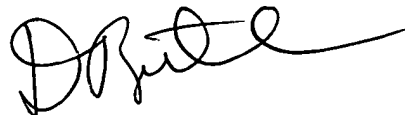
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The examiner disagrees in that the seals 46, 34, 36 are a "means for limiting leakage".

Re German 2623622 to Bitsch et al, applicant states that the "reference does not suggest to one skilled in the art to use a high viscosity fluid to give a regular behavior in a large range of temperature variation". For the above reasons, the claims are considered to be unpatentable over DE 2623622.

9. To simplify the issues, the examiner is not relying upon the Belgium reference 458,209 to Maurice and Dachicourt (3970292).

10. Any inquiry concerning this communication should be directed to Exmr Butler at telephone number 703-308-2575.

 3/3/05  
DOUGLAS C. BUTLER  
PRIMARY EXAMINER  
AU 3683

Butler/vs  
March 2, 2005